



STATE REPRESENTATIVE  
**CHRIS DANOU**

WISCONSIN STATE ASSEMBLY

91ST DISTRICT

May 28, 2009  
Testimony to Assembly Criminal Justice Committee  
Assembly Bill 241

Good Morning.

Thank you, Chairman Turner and members of the committee.

I authored this bill with Sen. Taylor based in part on my experiences as a police officer.

Organized retail theft is a crime that results in losses to merchants of up to \$40 billion dollars annually across the United States. It costs Wisconsin merchants approximately \$650 million.

Typically criminals engaged in this activity work in groups. They will move into an area of pre-selected targets. The criminals then enter various retail outlets in a shopping district, usually hitting a series of stores one after the other. They target high value, commonly used items such as expensive OTC medications, baby formula, razors, ink jet printer cartridges and expensive clothing and cosmetics. These gangs typically in a single outing can remove \$5,000-10,000 worth of goods. The gangs then sell the items to a fence, typically for about 30 cents on the dollar. It is not uncommon for a good "booster" to make \$100,000 to \$200,000 a year.

The "fence" then typically sells the stolen goods through flea markets or on line. Because these products are stolen and sold through illegal channels, often medications that should be kept in climate controlled conditions are damaged, expiration dates are changed and products such as infant formula are adulterated or expired, endangering the health and safety of consumers.

This bill is not aimed at the kid who steals a packet of Yu-gi-oh cards. This legislation is targeted at genuine organized crime. The individuals involved in this activity are also often involved in other organized crime activities as well, including drug trafficking, credit card fraud, check kiting scams and the like.

This bill does some of the following:

- Makes retail theft a class I felony if the value of the merchandise exceeds \$1,500.
- Makes retail theft a class I felony if the value is less than \$1,500 but is stolen with the intent to resell the merchandise

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WISCONSIN STATE ASSEMBLY

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- It also attacks the demand side of the crime by requiring persons to show proof of ownership of items being sold at flea markets such as baby food, cosmetics, drugs, infant formula and batteries.

Finally I would point out that if a criminal enters someone's home, steals their television set and sells it, they are committing a burglary, which is a felony. Stealing a television set from a store and reselling it is currently a misdemeanor.

Thank you

Chris Danou

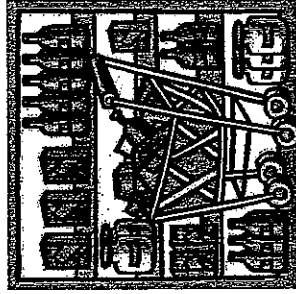
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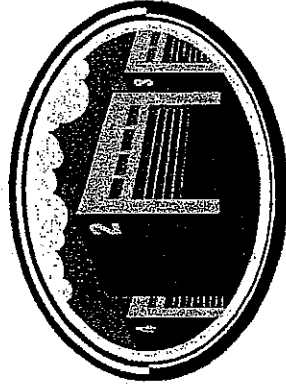
# Professional Organized Retail Theft Group in Action



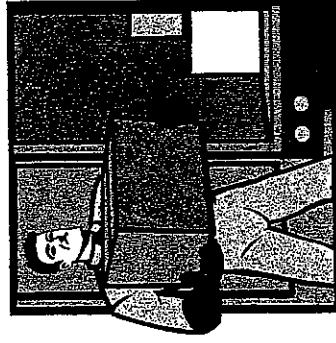
ORT Professionals  
Travel to Target City



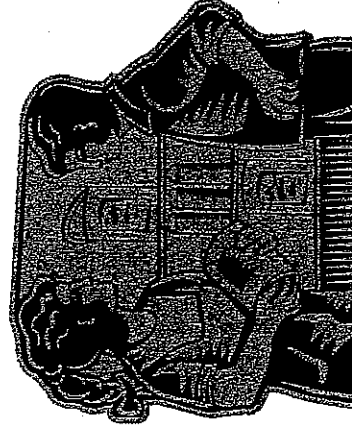
ORT Group Steals  
Products at Retail



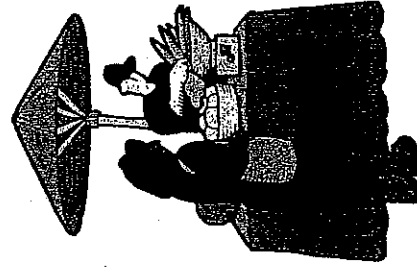
Stolen Products  
are Stored



Stolen Products  
Moved to be Sold



Stolen Products  
Sold to Shady  
Dealers

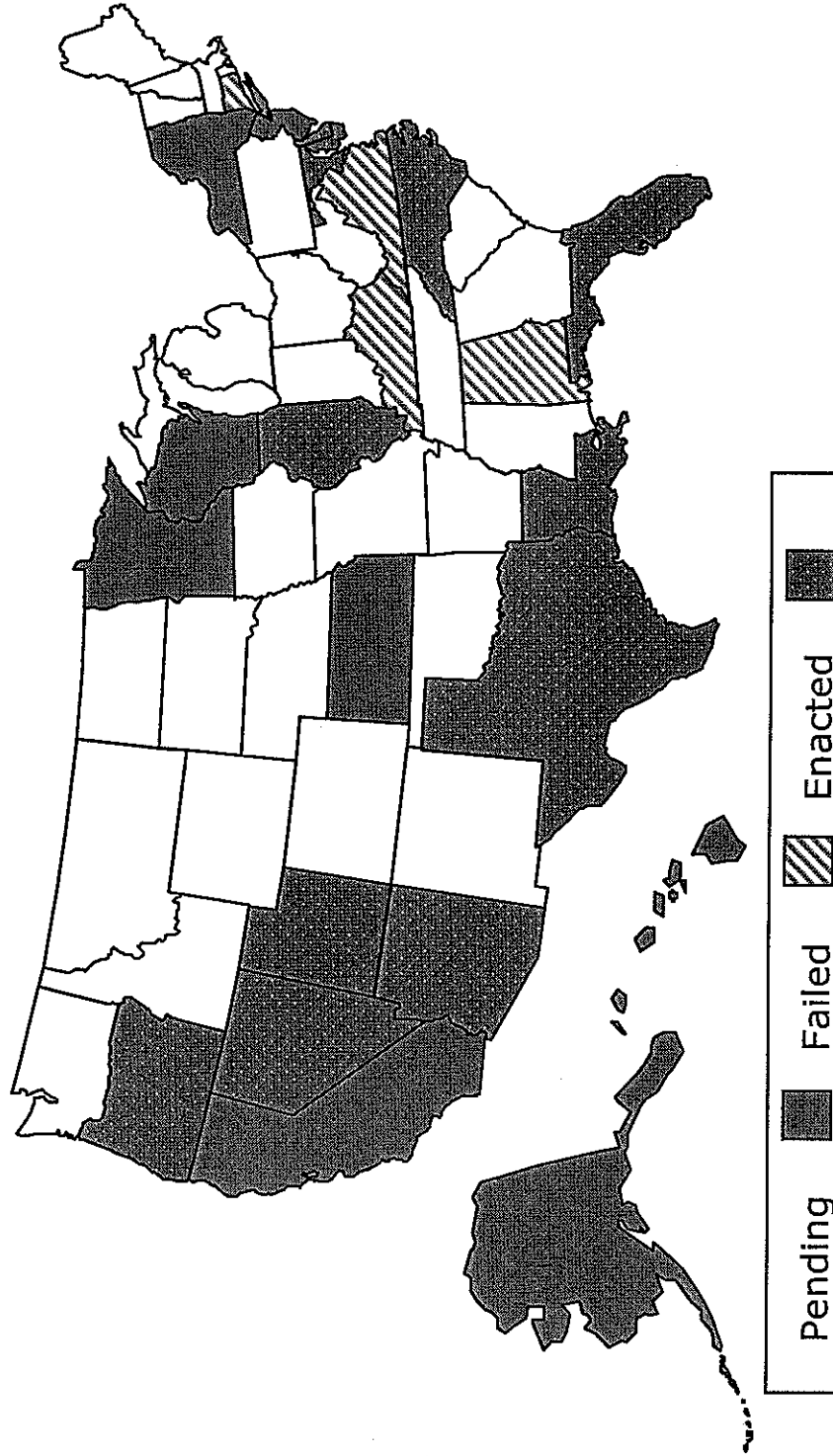


Vendor Sells  
Stolen Product  
to Customers

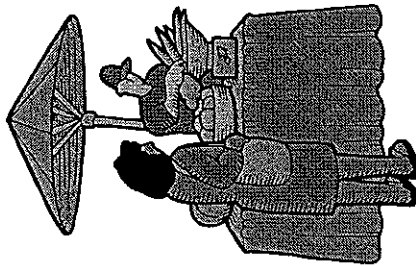
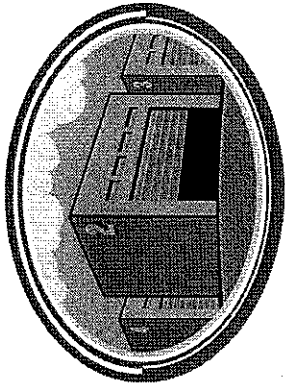
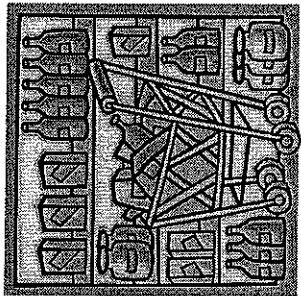
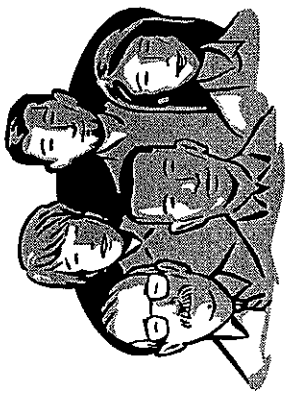


## 2007 State Organized Retail Crime Legislation

September 11, 2007



# Professional Organized Retail Crime Group in Action



**Stolen Products  
are Stored**

**ORC Group Steals  
Products at Retail**

**ORC Professionals  
Travel to Target City**

**Stolen Products  
Moved to be Sold**

**Stolen Products  
Sold to Shady  
Dealers**

**Vendor Sells  
Stolen Product  
to Customers**

## **Organized Retail Crime: Frequently Asked Questions**

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### **What is Organized Retail Crime?**

Organized retail crime, also known as organized retail theft, is an offense that involves two or more persons who are associated for the purpose of effectuating the transfer or sale of shoplifted merchandise within a professional crime ring, often comprised of organizers, boosters, fencing operations, repackagers and illegitimate wholesalers.

### **What is the difference between Organized Retail Crime and Shoplifting?**

Shoplifting is limited to items that are stolen by an individual for personal use or gain, whereas organized retail crime is an offense that involves two or more persons who are associated with a professional crime ring.

### **What types of businesses are usually targeted by Organized Retail Crime gangs?**

Businesses often targeted by organized retail crime gangs include: supermarkets, mass merchandisers, pharmacies and convenience stores.

### **What types of items are usually stolen by Organized Retail Crime gangs?**

Organized retail crime gangs often steal small household items that have a high monetary value and can be easily concealed. Some examples include: OTC drugs, razor blades, baby formula, camera film and batteries.

### **How do retail crime rings operate?**

Organized retail crime professionals, also known as boosters, travel to a designated area and steal merchandise from a number of stores. Storage facilities in the area are frequently utilized to hold the stolen goods while the group continues its retail crime operation. Once the operation is complete, the merchandise is then moved and sold through fencing operations, flea markets, pawn shops, internet auction sites and swap meets. Merchandise also may be fed back through the supply chain by shady repackagers and illegitimate wholesalers who slip the products back into the distribution system, rerouting the items back to supermarkets and other retailers.

### **Why do we need to craft additional laws for Organized Retail Crime when states already have certain legal remedies in place?**

Often the criminals that perpetrate this serious and often dangerous offense get charged under laws meant for common shoplifters. This problem can be compounded if area law enforcement is not aware of the differences between organized retail crime and shoplifting. State shoplifting laws are just not able to adequately aggregate or connect all of the offenses committed, and what should be a serious charge can turn into a mere slap on the wrist for these criminals.

### **What affect does this crime have on consumers and businesses?**

Organized retail crime results in the loss of as much as \$30 billion in merchandise annually. Organized retail crime negatively impacts both consumers and businesses, increasing prices on merchandise purchased by consumers and insurance premiums purchased by businesses.

## Organized Retail Crime: Information of Note

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It is a crime that results in the loss of as much as \$30 billion in merchandise annually. It is a crime that has been linked to terrorist groups. It is a crime that affects the health of our children. The offense being described is organized retail crime, and often the criminals that perpetrate this serious and often dangerous offense get charged under laws meant for common shoplifters.

- Organized retail crime is not shoplifting. Petty shoplifting, as defined, is limited to items that are stolen for personal use or consumption. Organized retail crime involves professional crime rings that target popular household items, such as infant formula and over-the-counter medications, which can then easily be sold through fencing operations, flea markets, pawn shops and swap meets.
- The ill gotten gains from organized retail crime could be supporting terrorists. FBI Director Robert Mueller has said that "Middle Eastern criminal enterprises involved in the organized theft and resale of infant formula pose not only an economic threat, but a public health threat to infants, and a potential source of material support to a terrorist organization."
- State and federal laws need to be strengthened to adequately combat organized retail crime. In Steven Emerson's testimony before the United States Senate Committee of Banking, Housing, and Urban Affairs, he noted that "because state laws have few teeth and there is a lack of federal law addressing the issue, retail theft is becoming increasingly attractive as a high-profit, low-risk avenue of crime for criminal organizations and terrorist groups."
- The product integrity and safety of infant formula that is resold by organized retail crime rings is often at risk due to the questionable storage facilities used to house the products. According to Joe Williams, 2006 Chair of the National Advisory Council on Maternal, Infant and Fetal Nutrition, in Houston "one 'boosted' can of powdered Enfamil with Iron is sold by a shoplifter 'booster' for about \$3.00-\$5.00 per can to fences who operate mostly out of mini storage facilities." (Presentation to National Conference of WIC Directors: Organized Retail Theft of Infant Formula)
- Organized retail crime is an increasing criminal enterprise. According to *Loss Prevention Magazine*, "based on increases in organized retail theft cases investigated by retailers, the FBI, and other theft task forces, it is believed that this is an increasing criminal enterprise." (March 1, 2006, *Loss Prevention Magazine*)



"These aren't shoplifters taking a pack of gum. These are professional thieves."

Brian J Nadeau, Former Program Manager, FBI Organized Retail Theft Program

- [Home](#)
- [What is it?](#)
- [Endorsements](#)
- [Case Studies](#)
- [What Others are Saying](#)
- [News Articles](#)
- [Coalition Members](#)
- [Join the Grassroots Effort](#)
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## News Releases

- **November 5, 2009**  
House Judiciary Committee Hears from Federal Law Enforcement on Retail Crime
- **November 5, 2009**  
Federal Law Enforcement Agree, Organized Retail Crime Growth Endangers Consumers and Communities
- **November 5, 2009**  
House Judiciary Committee Leaders Join Fight to Pass Federal Legislation to Combat Organized Retail Crime
- **February 25, 2009:**  
Leading Business Coalition Applauds Introduction of Crime Bills

## Case Studies of Professional Theft Rings and Their Criminal Activities

**Organized Retail Crime, already a large national problem, continues to grow rapidly.**

As these case studies illustrate, Organized Retail Crime does not involve petty shoplifting of a pair of jeans or a pack of gum. Organized Retail Crime instead is a growing problem that involves organized interstate or international theft rings who use the illicit profits to fund continuing criminal activities.

### **Florida: A five-year-old theft ring stole up to \$100 million**

In early 2008, authorities broke up an enormous organized crime retail ring in Polk County, Florida. It began as a single shoplifting investigation. Investigators soon turned up an 18-member organized



enterprise that stole up to \$100 million in medicine, health and beauty goods.

Operating for at least five years, the ringleaders directed a sophisticated theft ring that stole from convenience and grocery stores statewide.

**"I highly suspect that this is just the tentacle of a larger operation," Polk County Sheriff Grady Judd told *The Legend*, the local newspaper. "This is truly more of the beginning of the investigation than its end."**

The well-concealed theft ring included 13 known shoplifters, who used bags designed to conceal stolen items. They sold the stolen goods out of two warehouses, three flea markets, their own Web site and an Internet auction site, Judd said.

### **Texas: Stolen infant formula—and assassination plots**

On the eve of 9/11, Texas agents pulled over a rental truck filled with baby formula. The arrest led agents to some \$2.7 million in stolen assets.

The stolen goods included \$1 million in stolen baby formula that was being stored in garages with rodents running across storage facilities with no temperature controls. Writing about the case, *Security Management Online* said:

**"Fences are good at hiding their craft. As part of their operation, fences will clean, repackage, and re-label goods to make them appear as legitimate products. They will also switch labels, particularly if items are damaged or out of date."**

The crime ring hatched a plot behind bars to assassinate a police detective and a special investigator for U.S. Immigration and Customs Enforcement. Court transcripts showed that the leader tried to hire Crip gang members to arrange the hits for \$500. That plot failed. They also plotted to murder the federal prosecutor on the case. It, too, was foiled.

### **Oregon: Ring uncovered that operated from Oregon to Texas and Florida**

In 2001 the Portland division of Safeway opened an investigation of three major fences and presented the information to the FBI. Over the course of the next three years, Safeway and the FBI continued the investigation and successfully broke up a multistate Organized Retail Crime network operating from Oregon to Texas to Florida.

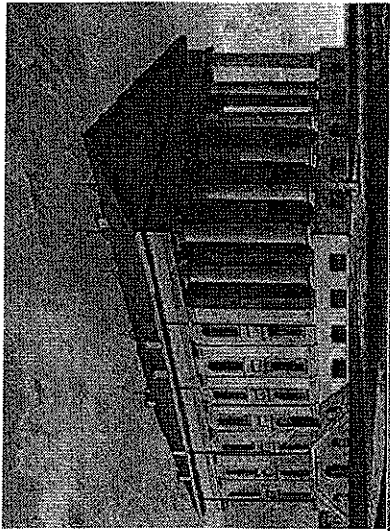
The investigation led to the seizure of more than \$3 million in product, \$950,000 in cash and federal criminal prosecution of 49 suspects. The suspects told federal investigators that they resold much of the stolen product on an Internet auction site because of the anonymity assured by the site.

### **Maryland: Student Makes \$50,000 selling stolen items on an Internet auction site**

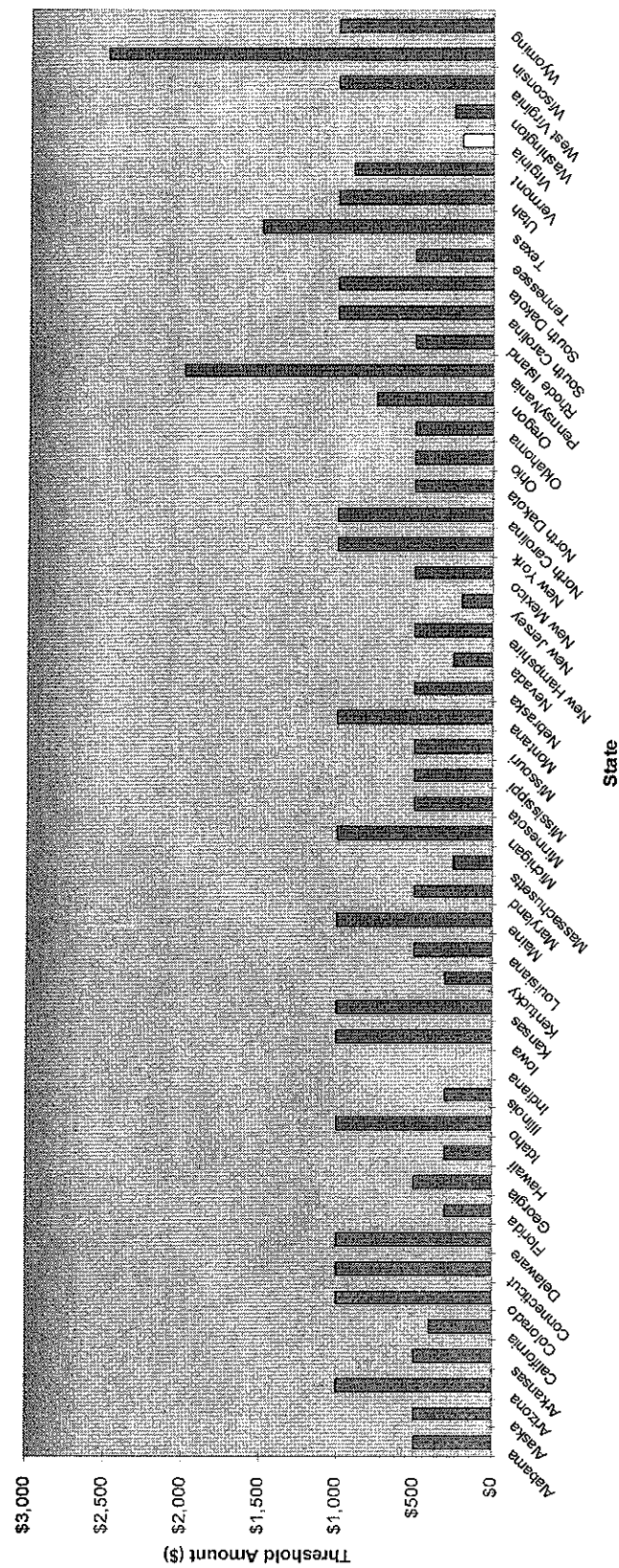
On Christmas Eve 2005, the Montgomery County Police Department apprehended a college student. By his own admission, the student made over \$50,000 auctioning off stolen merchandise on an Internet auction site.

The items, stolen from stores such as Best Buy, Target, and Wal-Mart, included high-end computer graphic cards, GPS navigation units, books, expensive iPod accessories, and many other items.

# 50 State Review



Felony Larceny Threshold in 50 States



\* In Indiana, the threshold is determined by the intent to deprive the other person of the property's value

# Felony Threshold By State - Updated 10/19/03

I hope this is proves useful. Thanks again to Jerry Geisler for compiling this list.

Alabama	\$500	Nebraska	\$500
Alaska	\$500	Nevada	\$250
Arizona	\$250	New Hampshire	\$500
Arkansas	\$500	New Jersey	\$250
California	\$400	New Mexico	\$250
Colorado	\$500	New York	\$1,000
Connecticut	\$1,000	North Carolina	\$1,000
Delaware	\$1,000	North Dakota	\$500
Florida	\$300	Ohio	\$500
Georgia	\$300	Oklahoma	\$500
Hawaii	\$300	Oregon	\$750
Idaho	\$1,000	Pennsylvania	\$2,000
Illinois	\$150	Rhode Island	\$500
Indiana	Felony*	South Carolina	\$1,000
Iowa	\$500	Washington	\$250
Kansas	\$500	South Dakota	\$500
Kentucky	\$400	Washington,DC	\$250
Louisiana	\$300	Tennessee	\$500
Maine	\$1,000	WestVirginia	\$1,000
Maryland	\$500	Texas	\$1,500
Massachusetts	\$250	Utah	\$1,000
Michigan	\$1,000	Vermont	\$100
Minnesota	\$250	Virginia	\$200
Mississippi	\$500	Wyoming	\$500
Missouri	\$500	Wisconsin	\$2,500
Montana	\$1,000	*No Limit	

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# Organized Retail Theft

## Most Frequently Shoplifted Items in Rank Order

<i>Product Name</i>	<i>UPC Number</i>
Advil tablet 50 ct	30573015030
Advil tablet 100 ct	30573015040
Aleve caplet 100 ct	32586610506
EPT Pregnancy Test single	5280032957
Gillette Sensor 10 ct	4740011505
Kodak 200 24 exp	4177124194
Similac w/iron powder - case	7007452276
Similac w/iron powder - single can	7007452275
Preparation H 12 ct	30573288310
Primatene tablet 24 ct	30573295210
Sudafed caplet 24 ct	30081076824
Tylenol caplet 100 ct	30045044909
Advil caplet 100 ct	30573016040
Aleve caplet 50 ct	32586610504
Correctol tablet 60 ct	4110007298
Excedrin tablet 100 ct	31981000166
Gillette Sensor/Excel 10 ct	4740011548
Gillette Sensor 15 ct	4740011507
Monistat 3	30062543001
Preparation H Ointment 1 oz	30573287110
Similac w/iron concentrate 13 oz	7007400414
Tavist-D decongestant tablet 16 ct	30043012116
Trojan ENZ 12 ct	2260093750
Tylenol gelcap 50 ct	30045012450
Tylenol gelcap 100 ct	30045012410
Tylenol tablet 100 ct	30045049960
Vagistat 1	31981000146
Advil caplet 50 ct	30573016030
Advil gelcap 50 ct	30573016530
Advil gelcap 24 ct	30573016520
Advil tablet 50 ct	30573015030
Aleve tablet 50 ct	32586610503
Anacin tablet 100 ct	30573020045
Centrum tablet 60 ct	30005423919
DayQuil liquicaps 20 ct	32390000875
Dimetap tablet 12 ct	30031227746
Duracell AA 4 pk	4133341501
Ecotrin tablet 100 ct	34969290120
Ecotrin tablet 60 ct	34969290360
Energizer AA 4 pk	3980001132
Excedrin tablet 50 ct	31981000165
Femstat 3 app	32586600528
Gillette Atra 10 ct	4740011710
Gyne-Lotrimin 3 app	30085110901
Monistat 7	30062542635
Motrin caplet 50 ct	30009348102
Motrin tablet 24 ct	30009346302
Oil of Olay 4 oz	7560900744
Preparation H Ointment 2 oz	30573287120
Schick Tracer FX 10 ct	1254700460
Gillette Sensor/Women 10 ct	4740011527
Sudafed tablet 24 ct	30081086524
Visine drops 1 oz	7430000308



# Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Shirley S. Abrahamson  
Chief Justice

16 East State Capitol  
Telephone 608-266-6828  
Fax 608-267-0980

A. John Voelker  
Director of State Courts

TO: Joint Review Committee on Criminal Penalties

FROM: John Voelker, Director of State Courts

RE: AB 241/SB 171 Relating to Retail Theft

DATE: February 1, 2010

Your committee has requested comments about AB 241 and SB 171 that is the subject of an informational hearing before the Joint Review Committee on Criminal Penalties today. These bills would decrease the dollar threshold that divides misdemeanors from felonies for crimes of retail theft. The bills also contain provisions relating to racketeering activity, sales over the Internet and proof of ownership for flea market sales. Please accept these written comments about the portions of the bills dealing with the threshold at which various property crimes would become a felony.

## (1) Costs Likely to be Incurred

AB 241 and SB 171 will have likely increase costs for the court system, although the increases are not estimated to be significant. Certain cases that currently are brought as misdemeanors would now be brought as felonies.

Felony proceedings generally require additional court appearances and more court hearings than misdemeanors. Additional court proceedings require judge, court reporter, court staff and juror time. These costs are borne by the state and the county.

It is impossible to estimate how many cases would be impacted by this change. Using data from the 2006 Judicial Needs Assessment, submitted to the Director of State Courts by the National Center for State Courts, misdemeanors overall took an average of 27.7 minutes of judicial time. For purposes of comparison, felony cases required, on average, 162.8 minutes of judicial time, from filing through post-disposition.

## (2) Consistency of Penalties

Wisconsin has maintained a uniform crime classification for the last 30 years. The most recent reclassification was done by the Criminal Penalties Study Committee, which was created by 1997 Wis. Act 283. One of the mandates for the committee was as follows:

Classification of each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification. See sec. 454(1)(e)2

In its final report, issued August 31, 1999, the Criminal Penalties Study Committee recommended the threshold at which various property crimes would become a felony be raised from \$1,000 to \$2,000, noting the legislature has last adjusted the dollar cut-off between misdemeanors and felonies in the 1991 session. The Legislature raised the threshold for these various property crimes from \$1,000 to \$2,500 in 2001 Wis. 16.

If the differing threshold contained in AB 241 and SB 171 is adopted, there could be very inconsistent outcomes for the same dollar value of damage done or property stolen, based on the charging decisions made. For instance, under these bills, if a person is alleged to have committed retail theft of property with a value exceeding \$1,500, then that person could be charged with a felony. If, however, a person is charged with theft under s. 943.20, credit card theft under s. 943.41, or theft of library materials under s. 943.61, that person could steal property up to a value of \$2,500 before being charged with a felony. This could lead to the perception of unequal treatment under the statutes, depending on the way charging decisions are made.

### (3) Alternative Suggestions

We do not have any alternative language to suggest.

### (4) Duplication in Statutes

It does not appear these bills duplicate other statutes.

I hope this information is helpful to the committee in fulfilling its assignment.

JV:NMR